

in the National Technical Information Service (NTIS) publication “Government Inventions for Licensing.”

(b) Interested persons may obtain copies of such lists by contacting the General Counsel, Attention: Assistant General Counsel for Patents, U.S. Department of Energy, Washington, DC 20545. Copies of U.S. patents may be obtained from the U.S. Patent and Trademark Office, Washington, DC 20231. Copies of U.S. patent applications, specifications, or microfiche reproductions thereof may be secured at reasonable cost from the National Technical Information Service (NTIS), Springfield, Virginia 22151.

§ 781.62 Contents of a license application.

An application for a license under a DOE invention must be accompanied by a processing fee of \$25 for each patent or patent application under which a license is desired, which shall be credited towards royalty if royalties are charged, and must include the following information:

- (a) Identification of the invention for which the license is desired, including the title of the invention and the patent application serial number or the patent number of the invention;
- (b) Name and address of the person applying for a license and whether the applicant is a U.S. citizen or U.S. organization;
- (c) Name and address of a representative of the applicant to whom correspondence should be sent and any notices served;
- (d) Nature and type of the applicant's business;
- (e) Applicant's status, if any, as a small business firm, minority business firm, or business firm located in a labor surplus area, low-income area, or economically depressed area.
- (f) Identification of the source of the applicant's information concerning the availability of a license on the invention;
- (g) A statement of the field or fields of use in which the applicant intends to practice the invention;
- (h) A statement of the geographic area or areas in which the applicant proposes to practice the invention, including a statement of any foreign

countries in which the applicant proposes to practice the invention;

(i) A description of the applicant's technical and financial capability and plan for bringing the invention to a point of practical or commercial application, and the applicant's offer to implement that plan, if the license is granted.

(j) The amount of royalty fees or other consideration, if any, that the applicant would be willing to pay the Government for the license;

(k) Applicant's knowledge of the extent to which the invention is being practiced by private industry and the Government; and

(l) In the case of an exclusive or partially exclusive license application, any facts which the applicant believes will show that it is in the public interest for the Department to grant such a license rather than a nonexclusive license and that such exclusive or partially exclusive license should be granted to the applicant.

(Approved by the Office of Management and Budget under control number 1901-0232) *

[45 FR 73447, Nov. 4, 1980, as amended at 46 FR 63209, Dec. 31, 1981]

§ 781.63 Published notices.

(a) A notice of a proposed exclusive license or partially exclusive licenses shall be published in the FEDERAL REGISTER, and a copy of the notice shall be sent to the Attorney General. The notice shall include:

- (1) Identification of the invention;
- (2) Identification of the proposed exclusive licensee or partially exclusive licensees;
- (3) Duration and scope of the proposed license;
- (4) A statement that the license will be granted unless:

(i) An application for a nonexclusive license, submitted by a responsible applicant pursuant to § 781.62, is received by the Department within sixty (60) days from the publication of the notice in the FEDERAL REGISTER, and the Department determines that the applicant has established that it has already achieved, or is likely expeditiously to

* Editorial Note: The section amended at 46 FR 63209, Dec. 31, 1981, appears as § 781.52.

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achieve, practical or commercial application under a nonexclusive license; or

(ii) The Department determines, based upon evidence and argument submitted in writing by a third party, that it would not be in the interest of the United States and the general public to grant the exclusive or partially exclusive licenses; and

(5) A statement advising that applicants or third parties participating in response to the FEDERAL REGISTER notice shall have the right to appeal any adverse decision, including the right to request an oral hearing, in accordance with § 781.65.

(b) In situations where the Department intends to limit the number of partially exclusive licenses under a particular invention pursuant to § 781.52(b), the notice in paragraph (a) of this regulation will be modified to reflect that intent and to invite applicants to apply for such partially exclusive licenses by a date specified in the notice.

(c) If an exclusive or partially exclusive license has been granted or, in whole or in part, terminated pursuant to this regulation, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

- (1) Identification of the invention;
- (2) Identification of the licensee; and
- (3) If a license grant, the duration and scope of the license; or
- (4) If a termination in whole or in part, the effective date of the termination and whether it is in whole or in part.

§ 781.64 Termination.

(a) The Department may terminate, in whole or in part, a license:

- (1) For failure, within the time specified in the license, to take steps necessary to accomplish substantial utilization of the invention;
- (2) For failure of the licensee, upon bringing the invention to the point of practical or commercial application, to continue to make the benefits of the invention reasonably accessible to the public;
- (3) If an exclusive or partially exclusive license, for failure of the licensee to expend the minimum sum or to take any other action specified in the license agreement;

(4) For failure of the licensee to make any payments or periodic reports required by the license;

(5) For a false statement or omission of a material fact in the license application submitted pursuant to § 781.62 or in any required report;

(6) For failure to grant a nonexclusive or partially exclusive license when required by the Secretary in accordance with this regulation; or

(7) For breach of any other term or condition on which the license was issued.

(b) Before terminating, in whole or in part, any license granted pursuant to this part, the Department shall mail to the licensee and any sublicensee of record, at the last address filed with the Department, a written notice of the Department's intention to terminate, in whole or in part, the license, with reasons therefor, and the licensee and any sublicensee shall be allowed thirty (30) days from the date of the mailing of such notice, or within such further period as may be granted by the Department for good cause shown in writing, to remedy any breach of any term or condition referred to in the notice or to show cause why the license should not be terminated in whole or in part.

(c) Termination shall be effective upon final written notice thereof to the licensee, after consideration of the response, if any, to the notice of intent to terminate, unless an appeal is taken in accordance with § 781.65, in which case the effective date of the termination is stayed, pending a final administrative decision on the appeal.

§ 781.65 Appeals.

(a) The following parties have the right to appeal under this part:

- (1) A person whose application for a license has been denied;
 - (2) A licensee or sublicensee whose license has been terminated, in whole or in part, pursuant to § 781.64; and
 - (3) A third party who has participated under § 781.63 of this regulation.
- (b) Appeal under paragraph (a) of this section shall be initiated by filing a Notice of Appeal with the Secretary, ATTN: Invention Licensing Appeal Board, with a copy to the General Counsel ATTN: Assistant General